

EXHIBIT 5

MIRER MAZZOCCHI SCHALET JULIEN & CHICKEDANTZ, PLLC

ATTORNEYS AT LAW
150 BROADWAY, TWELFTH FLOOR
NEW YORK, NEW YORK 10038

JEANNE MIRER
KRISTINA MAZZOCCHI
LIZABETH SCHALET

TELEPHONE: (212) 231-2235
FACSIMILE: (212) 409-8338

RIA JULIEN
MARIA L. CHICKEDANTZ

EMAIL: maria@mmsjlaw.com
INTERNET: www.mmsjlaw.com

March 22, 2017

By Hand Delivery and Email

Howard Friedman, General Counsel
52 Chambers Street, Room 320
Brooklyn, NY 10007
Email: HFriedman@schools.nyc.gov

Re: Cease and Desist OSI Investigation

Dear Mr. Friedman:

We write to you as General Counsel for the New York City Department of Education ("DOE") in reference to an investigation by the Office of Special Investigations ("OSI") that is currently in progress. This firm represents Principal Jill Bloomberg and Assistant Principal Carla Laban, the well-respected principal and vice principal of Brooklyn's Park Slope Collegiate ("PSC"). PSC is well known within District 15 and beyond as one of the truly integrated schools in this city, and Principal Bloomberg is well known for her commitment to the education of her students including her consistent advocacy against the structural racism that has persisted in this country and plagued our city's schools. This advocacy includes a very recent complaint and public stance against DOE policies that have resulted in racial segregation in her own school building, to the grave detriment of her students. Ms. Laban is an assistant principal at PSC, who also very recently has taken a public stance against the DOE's race discrimination and retaliation within her school.

As a result of and in retaliation for her advocacy against segregation, Ms. Bloomberg is currently under investigation by the OSI. More specifically, on January 10, 2017, Ms. Bloomberg sent a complaint to the CEO of the Public Schools Athletic League ("PSAL") Eric Goldstein and Superintendent Michael Prayor protesting the segregated sports programs offered to the students in her building in the John Jay Campus noting the existence of separate and unequal PSAL programs in the same building: one for two schools with predominately White students and another to be shared by four schools composed of predominantly Black and Latino students. Ms. Bloomberg highlighted not only the fact that the programs were segregated, but the fact that the White sports program, although comprised of

only 1,260 students, was provided 17 sports teams, while the Black and Latino sports program of 1,859 students was only given 9 teams. As a cure to the segregation, Ms. Bloomberg requested that the DOE integrate the two sports programs. (See the January 10, 2017 Letter, attached hereto as Attachment 1).

As no attempt to cure the discrimination had been made, on February 13, 2017, the PSC Parent Teacher Association organized a leafleting action where flyers that the information from Ms. Bloomberg's January 10, 2017 complaint were distributed on the sidewalk outside of PSC to inform the local community of the DOE's segregated and unequal sports programs at the John Jay Campus. (See the Flyer that was distributed to the community on February 13, 2017, attached hereto as Attachment 2).

The DOE's response occurred two weeks later, on March 2, 2017, when OSI investigator Michelle Archie informed Ms. Bloomberg that she was being investigated by the OSI. Although refusing to disclose any details related to the subject matter of the investigation directly to Ms. Bloomberg, in a subsequent interview of Ms. Laban (upon Ms. Archie's request), Ms. Archie asked Ms. Laban specifically about whether any communist activities had taken place at the school. Ms. Archie proceeded to show Ms. Laban a list of names and asked whether any of those listed were ever engaged in communist activities. Interestingly, the list of names consisted primarily of people who had no relationship to the school, including Ms. Bloomberg's husband and daughter, four former teachers, and several former students who had graduated many years before. Based on her conversation with Ms. Archie, Ms. Laban immediately recognized this investigation to be unlawful retaliation against Ms. Bloomberg for protesting race discrimination at the John Jay Campus, and she informed the PSC PTA of the DOE's response to Ms. Bloomberg's complaint and the PSC PTA's leafleting action. The PSC PTA has since released an online letter opposing the DOE's unlawful retaliation of Ms. Bloomberg, which has garnered hundreds of signatures. (See PTA online letter, attached hereto as Attachment 3).

The OSI investigation is still ongoing, and several teachers at PSC have been summoned by Ms. Archie to provide testimony. The OSI's actions bear a stark resemblance to this country's sad history and a time when those who spoke up for the civil rights of others were branded as subversive. See, e.g., *Dombrowski v. Pfister*, 380 U.S. 479 (1965). This investigation, which is a direct response to Ms. Bloomberg's efforts to fight the DOE's racist policies, is clearly a "throw-back" to this earlier sad history. Further, this firm believes this type of inquiry smacks of McCarthyite tactics which should not be condoned by the New York City Department of Education.

There can be no question that it is illegal for an investigation to be instituted in direct retaliation for Ms. Bloomberg's recent actions protesting race discrimination. Her concerns about racism are concerns of a general citizen and are a matter of public concern. The fact that she is a principal of the school is wholly independent and inapposite to these concerns. Ms. Bloomberg's activities are highly protected by both the First Amendment and Title VI of the Civil Rights Act of 1964. See *Pickering v. Bd. of Educ.*, 391 U.S. 563 (1968); See also 34 C.F.R. § 100.7(e) (forbids the DOE from intimidating, threatening, coercing, or discriminating against any individual for complaining about violations of Title VI).

In addition to this investigation being a violation of Ms. Bloomberg's rights, the fact that other PSC employees have been summoned by the OSI to provide testimony in this investigation creates a threatening witch-hunt atmosphere which serves only to chill our clients and those being summoned from engaging in constitutionally protected activities. "It is the chilling effect on free speech that violates the First Amendment, and it is plain that an implicit threat can chill as forcibly as an explicit threat." *Levin v. Harleston*, 966 F.2d 85, 89-90 (2d Cir. 1992).

By this letter we demand that the OSI immediately close its retaliatory investigation of Ms. Bloomberg. If we do not hear from you by Monday, March 27, 2017, that this investigation has been closed, we will take immediate action to enjoin this investigation. We demand a total end to the retaliation against Ms. Bloomberg and any future retaliation against anyone working at PSC who has also spoken out against race discrimination, segregation or unlawful retaliation within the DOE, including Ms. Laban. It is said that evil triumphs when good men remain silent. We do not intend to remain silent about this type of action against Ms. Bloomberg.

Best regards,

A handwritten signature in black ink, appearing to read 'MLC', with a long horizontal stroke extending to the right.

Maria L. Chickedantz

Cc: Jill Bloomberg, Principal
Carla Laban, Assistant Principal
Jaclyn Vargo, Director of OSI

Attachment 1

From: Bloomberg Jill (15K464)
Sent: Tuesday, January 10, 2017 6:49 AM
To: Goldstein Eric (OSSS); Prayor Michael
Cc: Douglas Donald; Williams Marc (15K463); Swinton Oneatha (15k462); Conway Kevin (15K684)
Subject: PSAL at the John Jay Campus

Dear CEO Goldstein and Superintendent Prayor,

I am writing to request your assistance in uniting the PSAL sports teams on the John Jay Campus in Brooklyn. Our campus houses The Secondary School for Journalism (SSJ), The John Jay School for Law (JL), Millennium Brooklyn High School (MBHS) and Park Slope Collegiate (PSC). Currently, the John Jay Campus Schools PSAL teams include students from SSJ, JL, PSC and students from Brooklyn High School of the Arts (BHSA) on Dean Street. MBHS students belong to the Millennium High School PSAL teams that also include students from Millennium High School (MHS) in Manhattan. These separate sports programs, both of which practice and compete at the John Jay Campus (MHS does not have a gym), offer vastly unequal opportunities to students.

School or Program	Number of PSAL Teams	Enrollment (SY 15-16)	% Black & Hispanic
JL		357	90.4
SSJ		222	87.0
PSC		356 (HS only)	85
BHSA		924	90.7
John Jay Campus PSAL	9	1859	
MBHS		620	51.5
MHS		641	25.2
Millennium High School PSAL	17	1261	

Prior to this school year, the John Jay Campus had only four teams. We were recently granted girls' cross-country, and girls' and boys' indoor and outdoor track though we requested and were denied girls' and boys' swimming, girls' softball, flag football, double-dutch and JV volleyball as well as boys' volleyball and soccer. Meanwhile, the number of MHS teams continues to grow.

The Principals of the schools at the John Jay Campus meet weekly to manage our shared campus. From the time that MBHS joined our campus community in 2011, I have argued that they should be a part of our PSAL team. Nonetheless, they opted to join with MBS (which opened in 2002) and, over the years, have been granted 17 teams. In spite of repeated requests to unite the teams and open up the opportunities that exist on the campus, but that are denied to students from three of the four schools, MBHS maintains its exclusive alliance with MHS.

The PTA at PSC has also raised these inequities with Executive Director Donald Douglas but have heard nothing in response.

The benefits of these separate and unequal programs to the students at MBHS and MHS do not justify the disadvantages imposed on the students from BHSA, JL, SSJ and PSC. Nor do whatever logistical difficulties may arise from uniting them. The students at all six schools are equally deserving of

opportunities to participate in extracurricular sports and it is the responsibility of the DOE and of PSAL to facilitate that equity.

I look forward to hearing from you soon.

Sincerely,

Jill Bloomberg, Principal

Park Slope Collegiate
237 7th Avenue
Brooklyn, NY 11215

(718) 832-4301 (telephone)

(718) 788-8127 (fax)

(929) 214-7919 (blackberry)

Attachment 2

Separate is never equal

One building. One team. Should be simple, right? But at the John Jay Campus, there are two sets of high school sports teams. One set is shared by three schools in the building—**Park Slope Collegiate**, the **Secondary School for Journalism**, the **Secondary School for Law**—plus **Brooklyn High School of the Arts**. The fourth school in the building, **Millennium Brooklyn**, shares its teams only with its sister school in Manhattan.

Millennium students account for 40% of the students using the sports facilities at John Jay, while the other four schools account for 60%. Yet the Millennium students have 17 sports teams available to them—nearly twice as many as the nine teams for the other four schools.

That's unfair.

And while the Millennium combined student population is 38% Black and Hispanic, the combined student body of the other four schools is 89% Black and Hispanic. John Jay students are subject to separate but unequal treatment. The Department of Education and the Public Schools Athletic League have allowed this racist inequity to take root.

That's unacceptable.

Let's work together to do what's fair and right.

It's time to merge John Jay's athletic teams so we can all benefit from our great sports facilities. Please email the Park

Slope Collegiate PTA for more information:

ParkSlopeCollegiatePTA@gmail.com

PSC, SSJ,
SSL, BHSA

MBHS,
MHS

60%

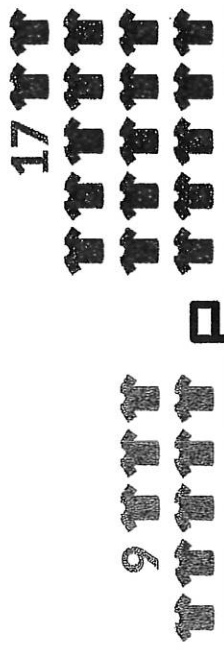
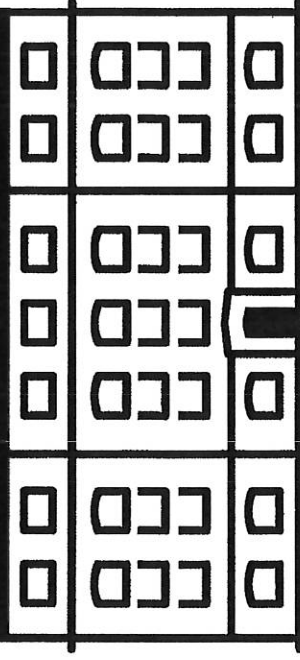
1,859 Students

40%

1,261 Students

Student Population

Using the John Jay Campus building



Sports Teams

Using the John Jay Campus building

89%

38%

Black & Hispanic Students

Using the John Jay Campus building

Attachment 3

We Support Principal Jill Bloomberg

Dear Chancellor Fariña,

We are parents, staff, students, alumni, and friends of Park Slope Collegiate (PSC). It has come to our attention that Principal Jill Bloomberg has been notified that she is the subject of an Office of Special Investigations investigation. We are writing to express our strong support for Ms. Bloomberg, who has provided exceptional, tireless leadership for the school, and has created a vibrant and supportive learning community for our children.

Ms. Bloomberg has built an outstanding academic environment, in which our children have thrived academically and socially. The school is a model of cutting-edge pedagogy and positive socio-emotional learning, and is a safe and nurturing space for students from a wide variety of backgrounds. None of this would be possible without the dedicated, thoughtful work of a principal who is a model of the highest standard of ethical behavior, engaged leadership and integrity.

The timing of this investigation suggests the real possibility it was initiated in retaliation for Principal Bloomberg's frequent advocacy on part of her students; advocacy that would constitute a protected activity under Titles VI and VII of the Civil Rights Act, as well as under related local anti-discrimination laws.

Ms. Bloomberg has a long history as an outspoken advocate against racial discrimination, and has taken a strong stand on matters such as removing the metal detectors from the John Jay Campus, objecting to the treatment of a student who was subjected to excessive discipline by school safety officers, advocating for school desegregation, and protesting against racial profiling by the police of PSC students.

Most recently, less than one month ago, Principal Bloomberg objected in writing that the Public Schools Athletic League (PSAL) has awarded almost twice the number of sports teams to Millennium Brooklyn High School (and its sister school in Manhattan, which shares John Jay facilities) than to the rest of the high schools in the John Jay Campus combined.

The PSC school community supported this action, and in materials that the PTA produced to draw attention to this situation, we included information documenting the different racial compositions of the two sets of schools, noting that Black and Hispanic students comprise only 38% of the Millennium schools combined, as compared to 89% of the rest of the John Jay schools combined. The PTA flyer stated that "John Jay students are subject to separate but unequal treatment. The Department of Education and the Public Schools Athletic League have allowed this racist inequity to take root." This advocacy, along with the above-mentioned actions, fall squarely into the definition of a protected activity under the anti-discrimination laws.

The opening of an investigation against Principal Bloomberg so soon following her memo and the circulation of our PSAL flyer creates a strong impression of a retaliatory nexus between her advocacy against discriminatory treatment of the John Jay students, as well as for her history of similar advocacy over the years. We sincerely hope that this is not the case.

We also have grave concerns about the lack of due process surrounding the investigation, and the resulting impact on our children's school. It is our understanding that Principal Bloomberg was notified verbally last week of the existence of the investigation, without being informed of the nature of the charges, nor given the opportunity to present any evidence on her behalf. Rather, she was told that it might be a minimum of a month before she is informed of the specific allegations, if at all. As parents

might be a minimum of a month before she is informed of the specific allegations - if at all. As parents, we find this treatment of the principal of our children's school to be appalling in its lack of transparency at a minimum.

Additionally, it has come to our attention that the investigation may absurdly be related to suspicions of "communist organizing" at the school. The fact that an upstanding principal could be seriously investigated for such McCarthyist allegations is astonishing and only reinforces our sense that this investigation is unfounded and retaliatory in nature.

We, the undersigned, are unified in our support of Ms. Bloomberg and will do everything possible to ensure that she receives the fair treatment, respect and due process owed to anyone in her position, but especially to someone who has devoted herself with such integrity and compassion to our children.

* Required

Email address *

Your email

Add your name:

Your answer

Connection to Park Slope Collegiate:

☐ Parent

☐ Student

☐ Teacher

